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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,806	10/11/2005	Bernhard Gleich	2003P00233WOUS	5535
24737 7590 07/21/2011 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
DEJONG, ERIC S				
ART UNIT		PAPER NUMBER		
1631				
NOTIFICATION DATE		DELIVERY MODE		
07/21/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

vera.kublanov@philips.com

debbie.henn@philips.com

marianne.fox@philips.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/552,806

Applicant(s)

GLEICH, BERNHARD

Examiner

ERIC S. DEJONG

Art Unit

1631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 June 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): the rejection of claims under 35 USC 112, 2nd paragraph.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 1-3,5-17,19 and 41-43
Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____

/ERIC S DEJONG/
Primary Examiner, Art Unit 1631

Continuation of Item 11. NOTE

Applicant's proposed after Final amendment containing an explicit determination step to independent claim 1 has been entered onto the record. This amendment is sufficient to overcome the rejection of claims under 35 USC 112, 2nd as set forth in the previous Office action mailed 04/29/2011.

All remaining rejections and objections are maintained for reasons of record.

Claims 1-3, 5-17, 19, and 41-43 are rejected under 35 USC 102(b) as being anticipated by either of Collin et al. and Piotto et al.

Applicants arguments filed 04/29/2011 have been considered but are not persuasive.

With regard to the rejection of claims under 35 USC 102(b), applicants argue that prior art does not teach the use of magnetic particles in two states, namely agglomerated and deagglomerated.

In response, it is noted that the instant rejection expressly points to the prior art with regard to the use of magnetic particles that exist in two different spin states. Further, the examiner refers applicants back to the instant rejection where coupled and decoupled spin states are discussed. It is further noted that, while applicant's are entitled to be their own lexicographer, the terms "agglomerated" and

"deagglomerated" with respect to distinct states of magnetic particles are not terms of the art. The most reasonable interpretation of the instant terms of agglomerated and deagglomerated encompass the coupled and decoupled spin states of spin 1/2 magnetic particles.

Applicant's have provided no evidence or teachings to the contrary.

Therefore, the rejection of claims under 35 USC 102(b) is maintained for reasons already of record.